

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

LAWAL O. BABAFEMI,

*Petitioner,*

*v.*

WARDEN UNKNOWN BAYSORE,

*Respondent.*

CAUSE NO. 3:24-CV-54-CWR-LGI

**ORDER**

Before the Court is Lawal O. BabaFemi's objection to the Magistrate Judge's Report and Recommendation (R&R). Docket No. 12. He argues that the R&R erred in determining that his § 2241 petition was unexhausted and failed on the merits.

Assuming without deciding that Mr. BabaFemi did in fact adequately exhaust his administrative remedies, this Court's independent examination of the merits indicates that he is not entitled to relief.

In the First Step Act of 2018, Congress prohibited persons in BOP custody from receiving certain time credits if the person had been convicted of certain kinds of offenses. *See* 18 U.S.C. § 3632(d)(4)(D). Congress then enumerated the ineligible offenses at length. *Id.* Conspiracy is not specifically enumerated in § 3632(d)(4)(D). *Id.*

Mr. BabaFemi says he was found guilty of conspiracy. From this he argues that he, and perhaps all persons found guilty of federal conspiracy crimes, are eligible for the time credits available under the First Step Act.

The Judgment entered in Mr. BabaFemi's criminal case shows that he pleaded guilty to two counts of criminal conduct. *See United States v. BabaFemi*, No. 1:13-CR-109-BMC, Docket No. 61 at 1 (E.D.N.Y. Aug. 17, 2015). Count One was "[c]onspiracy to provide material support to a foreign terrorist organization" in violation of 18 U.S.C. § 2339B(a)(1). *Id.* Count Two was "[p]rovision and attempted provision of material support to a foreign terrorist organization," again in violation of 18 U.S.C. § 2339B(a)(1). *Id.* That law creates criminal penalties for persons who "knowingly provide[] material support or resources to a foreign terrorist organization, or attempt[] or conspire[] to do so . . . ." 18 U.S.C. § 2339B(a)(1). It is part of chapter 113B of the criminal code. *See id.* §§ 2331-2339d.

Here is where we return to the First Step Act.

In § 3632(d)(4)(D)(xlvii) of that Act, Congress said that persons convicted of "[a]ny section of chapter 113B, relating to terrorism" are ineligible for the time credits. Mr. BabaFemi has two convictions for violating a section of chapter 113B, relating to terrorism. Under the plain language of the First Step Act, then, these convictions render him ineligible for the time credits in question. The Magistrate Judge's conclusion on this point was indisputably correct.

For these reasons, the R&R is adopted. A separate Final Judgment shall issue.

**SO ORDERED**, this the 26th day of September, 2024.

s/ Carlton W. Reeves  
UNITED STATES DISTRICT JUDGE